BEST COPY
AVAILABLE

MT LEGISLATIVE HISTORY

Chapter 616 1989

Bill (H) 304 S _____ Original bill & hist. ___C

H. Committee on Human Services & Aging		S. Committee on Public Health, Welfare & Safety	
Hearing Date(s) Feb01	✓C	Hearing Date(s) Apr06	✓C
Feb03	✓C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Feb04	✓C	Apr06	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By Senator Tom Hager, on April 6, 1989, at 9:30 a.m., Room 410, State Capitol

ROLL CALL

Members Present: Senators Tom Hager, Chairman; J. D. Lynch, Matt Himsl, Bill Norman, Harry L. McLane, Bob Pipinich

Members Excused: Senator Tom Rasmussen

Members Absent: None

Staff Present: Tom Gomez, Legislative Council
Dorothy Quinn, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 304

Presentation and Opening Statement by Sponsor: Tom Hannah, Representative of House District, stated he is the chief sponsor of HB 304. It was introduced and designed to address a problem in the state which deals with children who are emotionally and psychologically distressed to the point of where they become wards of the state and are in need of psychological services. He gave a brief overview of how a youth might be taken to an immediate mental health care facility where they are evaluated and the next step is decided upon. In Billings the next step in care would be the Rivendell Center which is the intensive treatment facility for the Billings area. Both the hospital and Rivendell are Medicaid facilities in that they receive state and federal matching funds for care of these youth. That type care lasts for a couple of months, and then long-care treatment plan is established and in Billings and Helena there are types of providers which would take over after the Rivendell situation. These two providers are Intermountain Deaconess Home and Yellowstone Treatment Center in Billings. They are less intensive facilities and longer term. The next step would hopefully be a group home or a foster home situation. HB 304 stems from the fact that Yellowstone Treatment Center was operating at a loss of about half of what it takes to care for the youth. When HB 304

was first introduced, it included Intermountain Deaconess but that facility has now dropped out and they are now dealing with Medicaid access for matching state funds for the Yellowstone Treatment Center. HB 304, with the amendments, would be a Medicaid pilot project of two-year duration; limited to those residential treatment centers in existence as of January 1, 1989. The Medicaid authorization section of the bill would sunset July 1, 1991. The question of whether the program will be more economical for the state is part of what needs to be solved through the pilot project. The Yellowstone Treatment center believes it will be beneficial financially. The next session of the Legislature would have reliable information. During the biennium the Program would be limited to existing facilities only, ie the Yellowstone Treatment Center. The bill requires (1) that any person wishing to establish a residential treatment facility would have to obtain a Certificate of Need; (2) during the period of the pilot project there would be a moratorium of the Certificate of Need for this service so the need of Medicaid utilization could be studied; (3) it be a non-hospital bed residential treatment facility which provides the service. Yellowstone Treatment Center is currently the only one in the state. All of this is geared so that the pilot project will be assured so that in two years the needs will be known and the costs apparent; (4) that the facility be licensed by the Department of Health as a residential treatment facility which is one of the key parts of the bill in setting up a new standard called residential treatment facility to allow access to Medicaid funds. He stated they have amendments requested by the Administration which he supports. He advised that the fiscal note does not apply because the bill has been amended and changed throughout the process. He stated the amendments are critical to the bill, and urged passage.

List of Testifying Proponents and What Group they Represent:

Loren Soft, Executive Director of Yellowstone Treatment Center
Russ Cater, Attorney, Department of Social and Rehabilitation Services
Pat Melby, Attorney, Yellowstone Treatment Center
Gary Walsh, Department of Family Services
Steve Waldron, Montana Residential Child Care Association

List of Testifying Opponents and What Group They Represent:

None

Testimony: Loren Soft, Executive Director of Yellowstone Treatment Centers, advised that he wished to emphasize the importance of this bill to their facility. He stated in the early years they served primarily the dependent neglected population - youth that needed a good home, loving house parents, and a "firm hand on the shoulder" approach. In 1979, as the needs began to change in the state, they were asked by the state to move into the realm of intensive treatment for seriously disturbed children and adolescents. They took on that challenge. They sought accreditation in 1979, and are accredited at the present time. This came about because of the tremendous amount of emotional problems surfacing. It was necessary to change their program. This residential treatment center which started out as a custodial care facility for semi-orphan children has become a very intense and sophisticated treatment center for very sick children. He stated the Yellowstone facility is similar to the Deaconess program in Helena; however, Deaconess works with the younger population with average age between 8-10 years. Yellowstone works with youth whose average age is 14. Some have been in the psychiatric hospital setting for short-term treatment and then need a season of residential treatment prior to returning home. They have not been able to keep up with funding. That mechanism has been through the Foster Care Program and while the numbers of seriously disturbed children have increased, the Foster Care budget has not been able to keep pace with what it costs to care for these children. As Rep. Hannah pointed out, they have been operating at about 50% deficit through the Foster Care system and cannot continue to provide the level of intense services under that system. He urged support of HB 304.

Russ Cater, Department of Social and Rehabilitation Services, stated he had prepared amendments to HB 304, copies of which he distributed to the committee (Exhibit #1). He advised that the bill before the committee today was considerably different than the bill which was introduced. The idea behind the previous changes and the proposed amendments is that they wish to limit the services because of fiscal considerations. However, there are still some costs. He explained the essence of the amendments. The intent behind Amendment 2 is to make the services under the

category of an optional Medicaid service. The Department feels there is a need to keep open the possibility that there will be significant fiscal impact, and there are also concerns of some legal considerations which may be raised by the Federal government regarding the limitation upon this service. They do intend at the present time to go forward with the services. In order to implement these services, the Department of SRS believes that additional appropriations will be needed. These appropriations are listed in Amendment 4. He added that there is a 75% Federal match on this funding. This amount of money is needed because the Department will need $28,000 for an employee within the Department to perform reviews of the children in the facility; in addition, the Federal government also requires a utilization review program. Currently this program is conducted under a private contract with the Montana-Wyoming Foundation for Medical Care. This is part of $40,000 in operating expenses which they believe will be necessary. This $40,000, in addition to the contracting of the Montana-Wyoming Foundation, will also include a small portion for the costs involved in performing audits on this facility to insure that the fiscal costs are in accord with the rules and to insure that the State of Montana is not spending too much money on the program.

Pat Melby, Attorney representing Yellowstone Treatment Center, stated HB 304 has had a long and arduous path in order to arrive at this point. He believes they have a good bill for the State of Montana and for the youth of the state. He added that this is a pilot project, lasting for two years during which time the application of the provisions of the bill will be considered to determine how many individuals are in need of services for the emotionally disturbed. He added that there are a number of safeguards in this bill to insure against a proliferation of services. These safeguards include (1) the requirement that residential treatment facilities be licensed as health care facilities; (2) the existing facilities as of January 1, 1989, would be grandfathered in as residential treatment facilities; (3) in order to add a residential treatment facility, any health care facility would have to go through a Certificate of Need process; (4) a moratorium placed on the issuance of any new Certificate of Need for any new beds for residential treatment facilities; (5) the amendment limiting the eligibility for Medicaid services to those youth who are in the custody of the Department of Family services. Mr. Melby predicted there would be a

significant savings to the General Fund and that the Legislature, upon review of the study which will be done by the Departments on the need for this service, will feel that this a good program and will want to continue it next session.

Gary Walsh of the Department of Family Services stated that the Department recognizes the need for an expansion of the number of services to youth in Montana. He believes HB 304 may be a vehicle to allow the department to better service youth in need of services. He read and presented his written testimony to the committee (Exhibit #2).

Steve Waldron, representing the Montana Residential Child Care Association, stated MRCCA is an organization of foster care group home providers and Yellowstone Treatment Center is one of the members. He stated they have providers who are "mom and pop" group homes, some therapeutic foster care providers, intermediate providers and residential treatment providers. He stated they have looked at this issue and support it They see this as a way to leverage Federal funds to attempt to deal with serious problems. According to Mr. Waldron, it is an underfunded system. They are underfunded in placement slots for youth, and they are underfunded in the amount that is reimbursed providers. This has caused some significant quality problems in servicing youth in the State of Montana. Yellowstone Treatment Center has made a sincere attempt working with Family Services and SRS to deal with fiscal issues that have been raised in this bill. He believes that a good job has been done to insure that this program will not get out of hand. One of the most critical restrictions is that these are not hospital based facilities. Consequently, the cost can be held down because in-patient residential treatment is less expensive than in-patient hospital care. He emphasized that this bill concerns non-hospital based in-patient facilities that still provide intensive treatment designed for long term. He urged support of HB 304, adding that the amendments are critical.

Russ Cater, Chief Legal Counsel for SRS, pointed out that in Amendment 4 the language "as provided in Section 2" should be inserted to indicate specific reference to the Medicaid program. Chairman Hager stated he would have Tom Gomez of the Legislative Council to check that revision.

Questions from Committee Members: Senator Norman asked how many patients per year are being discussed. Pat Melby replied approximately 50 children are placed at

Yellowstone Treatment Center per year. A spot check indicated that of those 50 children, 36 would have qualified for Medicaid reimbursement. The other 14 would be under the Foster Care reimbursement.

Senator Norman asked if there was a youth whom the court decided was in need of treatment but the court did not put him in the custody of Family Services, would he be eligible for the program? Mr. Melby stated he might be eligible to be in Yellowstone Treatment Center but there would be no reimbursement available either under Medicaid or Foster Care program. Regarding the request for one FTE, the purpose of that FTE would be to do the utilization review to insure that the services they are receiving are medically necessary. That one position is a cost-containment provision since the more intensive the utilization review the more the cost could be contained.

Senator Pipinich asked if the only center affected would be Yellowstone Treatment Center. Mr. Melby stated that was correct. Deaconess of Helena decided that for this two-year period they would prefer to continue under the Foster Care payment schedule. They are the only two licensed residential treatment centers in Montana that meet the definition in HB 304. Mr. Waldron stated that there are some intermediate level facilities, but they do not treat at the same intensity as residential care.

Senator Pipinich asked if the $68,000 would cover the total administration costs. He also asked what would the costs be for the 50 children per year. Rep. Hannah advised that the latest figures from the Fiscal Analyst indicate that without HB 304, it would cost through the Foster Care budget at the ranch, somewhere between $1,100,000 the first year and $1,400,00 the second year. Under HB 304, about the same amount of money will be spent but an additional 51 youth could be served for virtually the same amount of money because of the Federal match. Rep. Hannah advised that the $2,500,000 is already in the Foster Care budget.

Senator Himsl asked if this bill is subject to the entitlement fluctuations or qualifications. Mr. Melby stated that the state agency may cover all youth under age 21. They are concerned here with youth whose legal custody has been placed with the Department of Family Services.

Senator Himsl also asked if this required a Certificate of Need. Mr. Melby stated that in order to establish new beds a Certificate of Need would be required.

Yellowstone Treatment Center is already providing services and falls under the definition of a residential treatment facility and should be licensed as such by the state. They would not be converting; it would simply be a maximization of Federal funds available for match by using Medicaid.

Senator Himsl asked if the emotionally disturbed youngsters currently being sent out of state would then be brought back to Montana. Mr. Melby stated some probably would be brought back. However, there is a waiting list of 30 needing residential treatment. Not all of those would be suitable for an intensive treatment program. There are approximately 42 out of state presently.

Senator Himsl referred to the moratorium. Mr. Melby stated that a moratorium can be placed on the issuance of licenses or Certificates of Need if a legitimate governmental objective is being pursued. In this case they are saying that it is not known how many youth need this service, or what level of service is needed, and on that basis under the State and Federal constitution a moratorium can be established.

Senator Pipinich asked what amount is being paid for those 42 youth currently out of state. Mr. Melby stated the average cost is about $80.00 per day.

Closing by Sponsor: Representative Tom Hannah stated that there are children in need of care in addition to the children the state is caring for currently. He added that there is a tight budget situation and they are not serving all those who need to be served. HB 304 is designed to meet those needs. It attempts to leverage available money to serve more youth, to provide a rate to the provider that they can live with, and keep the youth in the State of Montana. He believes HB 304 comes close to achieving its goal. In addition, it will be determined if accessing the Medicaid system for residential treatment care is a good idea. There will be hard data to look at and that will be important in the next Legislative session. He stated he believes they have a good bill and urged support of HB 304.

DISPOSITION OF HOUSE BILL 340

Discussion: Tom Gomez, Legislative Council, read the new language of the amendment to incorporate the change suggested by Russ Cater, Attorney for SRS.

Amendments and Votes: Senator Norman made a MOTION THAT THE AMENDMENTS BE ADOPTED WITH THE CHANGE, AS CITED
Senators in favor, 5; opposed, 0. MOTION PASSED.

Recommendation and Vote: Senator McLane made a MOTION THAT HOUSE BILL 304 BE CONCURRED IN AS AMENDED. Senators in favor, 5; opposed, 0. MOTION PASSED.

Senator Hager will carry HB 304 to the floor of the Senate.

ADJOURNMENT

Adjournment At: 10:30 a.m.

Tom Hager

SENATOR TOM HAGER, Chairman

TH/dq

senmindq.406

ROLL CALL

PUBLIC HEALTH COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 4/6/89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Hager	X		
Sen. Tom Rasmussen			X
Sen. Lynch	X		
Sen. Himsl	X		
Sen. Norman	X		
Sen. McLane	X		
Sen. Pipinich	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

April 6, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 304 (third reading copy -- blue), respectfully report that HB 304 be amended and as so amended be concurred in:

Sponsor: Hannah (Hager)

1. Title, line 19.
Following: "FACILITIES;"
Insert: "TO APPROPRIATE FUNDS;"

2. Page 11, line 19.
Following: "SERVICES."
Insert: "(1)"

3. Page 11, line 20.
Following: "53-6-101"
Strike: "INCLUDES"
Insert: "may include"

4. Page 11, line 25.
Following: line 24
Insert: "(2) To the extent allowed by federal law, the department shall by rule limit eligibility for medicaid reimbursement for residential treatment facility services to those persons under 18 years of age committed to the department of family services by a youth court under 41-5-523 or placed in the legal custody of the department of family services under 41-3-406."

5. Page 17, line 23.
Following: line 22
Insert: NEW SECTION. Section 6. Appropriation. The following money is appropriated to the department of social and rehabilitation services to provide inpatient psychiatric services for persons under 21 years of age, as provided in [section 2]:

Fund	FY 90	FY 91
General fund	$ 17,027	$ 17,027
Federal special revenue	51,080	51,080
Total	$ 68,107	$ 68,107"

Renumber: subsequent sections

AND AS AMENDED BE CONCURRED IN

Signed: _____
Thomas O. Hager, Chairman

scrhb304.406

SENATE HEALTH & WELFARE
EXHIBIT NO. #1
DATE 4/7/89
BILL NO. HB 304

PROPOSED AMENDMENTS TO HB 304
(Corrected Third Reading, Third Printing,
As Amended -- Blue Bill)

1. Page 11, line 19.
Following: "SERVICES."
Insert: "(1)"

2. Page 11, line 20.
Following: "53-6-101"
Strike: "includes"
Insert: "may include"

3. Page 11.
Following: line 24
Insert: "(2) To the extent allowed by federal law, the department shall by rule limit eligibility for medicaid reimbursement for residential treatment facility services to those persons under the age of 18 committed to the department of family services by a youth court under section 41-5-523 or placed in the legal custody of the department of family services under sections 41-3-406."

4, Page 17.
Following: line 22
Insert: "New Section. Section 6. Appropriation. The following money is appropriated to the Department of Social and Rehabilitation Services for the purpose of administering [this Act]:

Section 2 of

Fund	FY 90	FY 91
General Fund	17,027	17,027
Federal Special Revenue	51,080	51,080
Total	68,107	68,107

Renumber: Subsequent sections.

Rationale: Proposed amendments numbered 1 and 3 will limit services to children under 18 years of age. The federal law allows inpatient psychiatric services for children under 21 years of age but restrictions to a lower age may be permitted. (See 42 C.F.R. 435.222.) This amendment restricts services to children placed by the Department of Family Services. DFS only has authority for children under age 18 thus the age limit has been lowered.

Sen. Health & Welfare
4/7/89
#1
HB304

Amendments to House Bill No. 304
Corrected Third Reading Copy, Third Printing, as Amended

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez
April 6, 1989

1. Title, line 19.
Following: "FACILITIES;"
Insert: "TO APPROPRIATE FUNDS;"

2. Page 11, line 19.
Following: "SERVICES."
Insert: "(1)"

3. Page 11, line 20.
Following: "53-6-101"
Strike: "INCLUDES"
Insert: "may include"

4. Page 11, line 25.
Following: line 24
Insert: "(2) To the extent allowed by federal law, the department shall by rule limit eligibility for medicaid reimbursement for residential treatment facility services to those persons under 18 years of age committed to the department of family services by a youth court under 41-5-523 or placed in the legal custody of the department of family services under 41-3-406."

5. Page 17, line 23.
Following: line 22
Insert: NEW SECTION. Section 6. Appropriation. The following money is appropriated to the department of social and rehabilitation services to provide inpatient psychiatric services for persons under 21 years of age, as provided in [section 2]:

Fund	FY 90	FY 91
General fund	$ 17,027	$ 17,027
Federal special revenue	51,080	51,080
Total	$ 68,107	$ 68,107"

Renumber: subsequent sections

SENATE HEALTH & WELFARE
EXHIBIT NO. #2
DATE 4/6/89
BILL NO. HB 304

Testimony -- HB 304

GARY WALSH

Department of Family Services

The Department of Family Services recognizes the need for an expansion of the number of services to youth in Montana. The department presently has 30 plus youths on a waiting list for services. HB 304 may be a vehicle to allow the department to better serve youth in need of services.

The Stephen's administration has no objection to HB 304 with the accompaning amendments. The amendments represent the attitudes of the Department of Family Services and the Department of Social and Rehabilation Services. It is the opinion of the departments that these amendments are essential to attempting to control the potential costs of this legislation.

The departments would like to mutually specify that they are in full concurrence with the sunset provision of the bill. The departments of DFS and SRS would like to also go on record of stating that if there is any expansion of general fund expenditures during the two year " pilot period ", that they would not recommend reauthorization of the legislation. It is the intent of the departments to closely scrutinize the success of HB 304.

In addition, the departments would like to call to your attention the situation that is occuring in other states. In states such as Colorado, the number of available beds have been proliferated at an astronomical pace the last three to four years. If this situation is allowed to occur in Montana we will not be able to contain costs, and a run-away problem will be occuring in the general fund. We feel that, as amended, the bill will meet its objective, during the two year test period.

It is our belief that the suggested amendments will enable us to control the costs and expansion of the program. It is our desire that the Department of Family Services would act a gate-keeper by strictly enforcing placement. We feel as though every effort has been made to allow the departments to be able to live with the bill if it is enacted.

DATE 3/4

COMMITTEE ON Public Health

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Gary Walsh	Dept. Family Serv	HB304	✓	
Pat Melby	Yellowstone Treatment Center	HB304	✓	
Steve Waldron	Montana Residential Child Care Association	HB304	✓	
John Thorson	Mental Health Assoc.			

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE on Public Health

Date 4/6/89 Bill No. HB 304 Time

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	–	
Sen. J. D. Lynch	–	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane	X	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Tom Hager
Chairman

Motion: Sen Norman made motion that the amendments be adopted with the changes as cited. On Voice - 5 - 0 Opposed

1985

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 4/6/89 Bill No. HB 304 Time

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	–	
Sen. Lynch	–	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane	X	
Sen. Bob Pipinich	1/	

DOROTHY QUINN
Secretary

TOM HAGER
Chairman

Motion: Sen McLane made Motion That HB 304 BE Concurred In As Amended Senator Lynch Opposed, 0

1989

None

Testimony:

Maggie Bullock suggested that the committee approve the amendments appearing before them. One of the items in the bill which would conform to the federal language is the reference to people with severe disabilities rather than referring to them as severely disabled persons.

Lesley Taylor supports this bill and said that currently the Department of Family Services licenses the facilities as a part of SRS.

Questions From Committee Members: Rep. Simon asked Ms. Taylor about the term "temporary" and Ms. Taylor stated that in sections 13 and 14. Mary McCue answered the question for Rep. Simon. When a bill is drafted the dates are both inserted, make the changes in both sections, and if the date changes, they both will appear. This does not have anything to do with substance.

Rep. Good asked Ms. Taylor if there was going to be a change and Ms. Taylor indicated that there was not.

Rep. Boharski questioned "reasonable fee" and Ms. Bullock stated that the Department of Health was the licensing authority for the state and so they go into various facilities and they are the appropriate people to license these.

Closing by Sponsor: Rep. Squires closes on the bill.

HEARING ON HB 304

Presentation and Opening Statement By Sponsor: Rep. Hannah stated that this bill was an act to codify authorization for medicaid inpatient psychiatric services; to define "residential treatment facility"; to provide inpatient psychiatric services to persons under 21 years of age in a residential treatment facility; to require a certificate of need for residential treatment facilities. Exhibit 2.

List of Testifying Proponents and What Group They Represent:

Loren Soft, Yellowstone Treatment Center
John Wilkinson, Intermountain Deaconess Home
Dan Yasak, Yellowstone Treatment Center
Pat Melby, Yellowstone Treatment Center
Steve Waldron, Montana Residential Child Care

Association
John Thorson, Montana Mental Health Association
Jack Casey, Shodair Hospital
Chad Smith, Shodair Hospital
Rep. Tom Nelson
Rep. Stella Jean Hansen

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Loren Soft states his support and gave a brief history of the Yellowstone Treatment Center and the changes which had occurred over the last 25 years of his employment with the facility. The most significant change which came about for YTC was to be JCHO accredited as a psychiatric treatment facility. This occurred in 1979. YTC was at one time a long-term care custodial care facility where children came to grow up to a facility which is a short term intense treatment facility where they actively engage the parents in the therapy process.

John Wilkinson supports this bill and said that the kinds of children that are treated at Deaconess are those who have been severely, emotionally, physically, sexually abused, pervasively neglected and pervasively understimulated.

Dan Yasak supports this bill and states that services are provided for the facilities at about 50 cents on a dollar. In the last year, that has resulted in money in the figure of 1.3 million dollars.

Pat Melby supports this bill and states that with this legislation, cost to the state will not be any more money. All the children in the facilities will be medicaid or DFS funded.

Steve Waldron supports this bill and states that the facilities are underfunded.

John Thorson supports this bill and states that the availability of funding could benefit Montana facilities.

Jack Casey is a supporter of the bill as amended.

Chad Smith supports this bill and spoke of the proposed amendments and supplied them as Exhibit 4.

Tom Nelson stated his support.

Rep. Stella Jean Hansen supports this bill.

Questions From Committee Members: Rep. Gould asked Mr. Melby about the certificate of need. Mr. Melby stated that a certificate of need served a beneficial purpose. Rep. Gould then asked Mr. Smith the direction that the program at Shodair was doing. Mr. Smith stated that the purpose of the 20 bed unit is to provide psychiatric treatment with the best and talented psychiatrists and other auxiliary staff help that can be found.

Rep. Lee asked Mr. Melby if the out of state patients are funded at about $175.00 a day and Mr. Melby said that they were.

Rep. Good asked Mr. Wilkinson about the children which were being treated out of state. Who picks up the costs of the treatment of these children? Mr. Wilkinson stated that the state of Montana was responsible.

Rep. Lee asked Mr. Wilkinson how many children could have come back to Montana that had been treated out of state and Mr. Wilkinson indicated that approximately 30-35 children could have returned. Rep. Lee then questioned the unused capacity at Deaconess and Mr. Wilkinson indicated that 40 beds were available. Rep. Lee then asked Rep. Hannah if the children out of state were getting good enough care and Rep. Hannah indicated that they were.

Rep. Russell asked Mr. Waldron about long range projections and Mr. Waldron indicated that he did not have good accessible data. Rep. Russell then asked Mr. Wilkinson about the number of children returning back to communities and he indicated that approximately 20% were reinstated with their families. Rep. Russell then asked Mr. Melby who paid for the care of Indian children and Mr. Melby indicated that the Bureau of Indian Affairs did this.

Closing by Sponsor: Rep. Hannah closes on the bill.

A Recess was called at 5:30 p.m. and called back to order at 7:00 p.m.

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date February 1, 1989
3:00 PM

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp			✓
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

STATE OF MONTANA
Office of the Legislative Fiscal Analyst
STATE CAPITOL
HELENA, MONTANA 59620

JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

January 31, 1989

Representative Tom Hannah
Seat #29
Montana House of Representatives
Helena, MT 59620

Dear Representative Hannah:

The following is in response to your request for additional information regrading medicaid certification of youth treatment centers. The analysis is based on information contained in the draft fiscal note and a draft copy of the SRS analysis of the fiscal impact of certifying the Yellowstone Treatment Center (YTC) and the Deaconess Home. The major assumption I have made in the analysis is that the Department of Family Services (DFS) and medicaid must have the same reimbursement rates, i.e., medicaid will not reimburse for the same service at a higher rate than the state would pay with non-medicaid funds.

According to the information contained in the draft fiscal note, YTC will provide services to 58 youth during both fiscal 1990 and 1991, or 21,170 days of care. Of the 21,170 days of care, approximately 70 percent would be medicaid reimbursed and the remaining 30 percent would be funded through the DFS. The Deaconess will provide services to 10 youth during fiscal 1990 (3,650 days of care) and services to 19 youth in fiscal 1991 (6,935 days of care). I have used the same ratio of funding as contained in the draft fiscal note.

The following table compares the cost to the state of providing care at YTC at the projected medicaid reimbursement rate of $165 per day, with the projected cost to the state if YTC were not medicaid certified and the state had to renegotiate their contract with YTC. According to the SRS draft document, the renegotiated rate would be approximately $125 per day.

EXHIBIT 2
DATE 2-1-89
HB 304

Table 1
Yellowstone Treatment Center
Comparison of Costs for Residential Care

	Medicaid $165/Day	Costs $125/Day	Difference
General Fund	$1,369,697	$1,712,069	$ (342,372)
Federal	1,934,972	479,537	1,455,435
County	188,382	454,644	(266,262)
Total	$3,493,051	$2,646,250	$ 846,801

As shown in Table 1, the net savings to the state by providing medicaid reimbursement would be approximately $342,000 per year, or $685,000 in general fund over the 1991 biennium. Using a similar procedure to compare the costs at the Deaconess at a medicaid reimbursement rate of $145 per day, the net savings to the state would be approximately $126,423 for the biennium.

If you desire additional information, please feel free to contact me.

Sincerely,

Peter Blouke
Senior Fiscal Analyst

PB3:kj:rh1-31

Mental Health Association of Montana

A Division of the national Mental Health Association
State Headquarters
555 Fuller Avenue
Helena, Montana 59601
(406) 442-4276

Madame Chairperson, Committee Members:

The Mental Health Association of Montana does not have a formal position on HB304 but does have some concerns with this bill. The MHAM is a non-profit, volunteer organization advocating for improvement of care and treatment services and their availability and accessibility for persons of all ages. One of our primary interests is that persons with mental health problems be treated in the least restrictive, most appropriate manner possible, with consideration also being to cost effectiveness and proximity to ones residence.

Our concern is two-fold.

Montana is faced with a problem of an incomplete system of care for serving our emotionally disturbed children and youth. We feel we may have enough inpatient psychiatric hospital beds to meet the needs of our young ones, we do not have enough of the alternative services, such as therapeutic foster homes, group foster homes, day treatment programs, and family based programs. There is, we believe, a need for a true continuum of care to meet the treatment needs of children at each level of illness and disability.

We are concerned that youth placed in a residential treatment facility (or RTF) may not be in the least restrictive, most appropriate program for their needs. The placement may be influenced by their eligibility for Medicaid reimbursement. Medicaid availability, while a very important and necessary financial resource, may encourage placement in a RTF as opposed to an alternative program which could be more appropriate, less restrictive and less expensive. We are concerned that this may encourage long-term institutionalization.

Secondly, we want to address the potential financial implications for state general funds. It is our understanding that children and youth who are placed in an RTF are receiving services under an entitlement program. If they are Medicaid eligible, the federal government picks up part of the tab for a period of time. Once the service is no longer "medically necessary", Medicaid reimbursement is no longer available. Unless the child is therapeutically at a point of being released from the RTF and there is a natural home or some alternative service available and appropriate for that child, the state Dept of Family Services may then be responsible for the cost, even though the Youth Placement Committee did not place the child at the RTF. Even if the State pays at a lower reimbursement rate than the Medicaid approved rate, it is using general funds dollars for a placement that is no longer the most appropriate. This has the potential of competing with state funds for other mental health services for children.

EXHIBIT 3
DATE 2-1-89
HB

As an example of the potential competition, please see the attachment to our testimony from the Invisible Children Project. These figures indicate that residential treatment care might run as much as 4 times as much as day treatment services.

If you favor this legislation we urge that it have a sunset provision and that continuation of the legislation should be heavily dependent of the results of the study of residential treatment facility needs in Section IV of the bill. In particular we feel the study should address the appropriateness of placement under the bill and the cost implications for Medicaid and state general fund.

We do not want to deny any child needed services, including residential treatment services when appropriate. But we do hope to impress upon you our concerns with this legislative proposal as it relates to appropriate treatment and care of our emotionally disturbed children and youth.

Thank you.

NEWS

National Mental Health Association

RECEIVED

JAN 3 1989

NATIONAL MENTAL HEALTH ASSOCIATION

INVISIBLE CHILDREN FACT SHEET

The National Mental Health Association (NMHA) initiated its INVISIBLE CHILDREN PROJECT as a take-home assignment for the 500 participants in the NMHA Children's Mental Health Conference in Milwaukee, Wisconsin, in November 1986. Through the project, NMHA hoped to focus attention on the mental health needs of children by collecting data regarding children with serious emotional problems.

NMHA believed that information regarding the number of youth placed in state hospitals and in out-of-state and in-state residential treatment facilities (plus other demographics regarding this group) could assist local, state and national officials in planning more effectively for this population.

The children identified in our report are only the "tip of the iceberg." The INVISIBLE CHILDREN PROJECT addressed only those children identified in public mental health systems. Even then, we had extensive difficulty in obtaining data. Data on children seen in private psychiatric facilities, foster care, detention or juvenile justice facilities are at best tangentially included in this report. Any of these would warrant a separate study.

Out of our nation "wide-lens" view, we have isolated a clearer "snapshot" of who these children are:

OUT-OF-STATE PLACEMENT

- Nearly 5,000 children were identified by our survey as placed by state agencies in out-of-state psychiatric facilities.

- 92 percent of these placements were initiated by state departments other than mental health. From the 37 states who submitted complete information, child welfare agencies placed the most children nationally (51%) followed by education (22%) and juvenile justice (19%).

- 89 percent of these children were referred to private residential treatment facilities at an estimated average cost of $40,760. The average length of stay was 15.4 months, with 10 years being the longest reported stay.

(more)

- Composite demographic data collected from 18 states that provided such information reflected that most youth referred out-of-state were white (74%) adolescent (87%) males (68%) who presented serious behavior and conduct problems (79%) rather than psychosis or other thought process disturbances.

- The national average for out-of-state placements is 14 per 100,000. (See attached chart for state by state breakdown.)

- There is extreme variation among states of comparable size in the number of children they send out-of-state:

STATE	CHILD POPULATION	RATE PER 100,000
North Dakota	197,000	31
South Dakota	205,000	4
Ohio	2,873,000	6
Pennsylvania	2,877,000	29
North Carolina	1,589,000	0
Georgia	1,658,000	7

- Not only was Pennsylvania the highest recipient of referrals from other states (215) but it placed the most children out-of-state (847).

STATE HOSPITALIZATION

- Nationally 22,578 children were placed in state hospitals in 1986, according to our survey. The number of children so placed ranged from none to over 3,000, with the average being 427 children per state.

- Average length of stay was reported as 4.2 months.

- Most youth were white (74%) adolescent (89%) males (67%) with serious behavior problems (77%) according to the 18 states who submitted this information.

- The national average rate for state hospital utilization is 38 per 100,000. The three states with the highest state hospitalization were:

Wyoming	(131 per 100,000)
Tennessee	(97 per 100,000)
Georgia	(95 per 100,000)

- Three states--Delaware, Nevada and West Virginia--placed no children in state hospitals. (See attached chart for state by state breakdown.)

- Average per diem rate for state hospitaliztion (from a sampling of states) is $299.16. Average annual cost is $109,193.40. Cost per child per 4.2 month episode is $38,217.69. Total cost for serving 22,578 youth in state hospitals per episode is $862,879,004.80.

(more)

WHY IS THIS DATA OF CONCERN?

Admission to a state hospital or residential treatment facility is not always undesirable but is often unnecessary and inapporpriate. Many children with serious emotional problems can be treated effectively in their homes or home communities. Treatment should be offered in a less restrictive setting before placement in a more restrictive setting is considered. These children need intensive treatment but intensive treatment can be offered in a child's home.

Preliminary results from an on-going longitudinal study of 800 children with serious emotional disturbance, conducted by Robert M. Friedman, Ph.D., and Starr Silver, Ph.D., shows that the psychological profile of children being treated in state hospitals is not that different from those being treated successfully in their own homes.

Often state hospital placements and out-of-state residential treatment facilities are the most expensive forms of treatment. Recent studies are beginning to show the effectiveness of both intensive in-home crisis services (such as Homebuilders out of Tacoma, Washington) and day treatment.

INTENSIVE IN-HOME CRISIS SERVICES $ 1,100

Episode: Six weeks of intensive in-home crisis counseling may be offered to prevent removal of children from home and to stabilize the family situation.

DAY TREATMENT $12,500

Episode: A year of treatment in a day treatment program may be offered to children who are seriously emotionally disturbed. Many times this has prevented the removal of the child from home.

STATE HOSPITAL $38,218

Episode: Nationally, the estimated cost in a state hospital for treating adolescents and children is $299 per day. The cost per episode would be $38,218 based upon an average length of stay of 4.2 months. (Annual cost = $109,193)

RESIDENTIAL TREATMENT FACILITIES $53,500+

Episode: Nationally the estimated cost in a residential treatment facility is $111.67 per diem. Because of incomplete data this per diem rate is considered an underestimate of the actual cost of the service. Based upon an average length of stay of 15.4 months the cost per episode would be $53,500.

(more)

SUMMARY

A review of current research regarding the effectiveness of community-based mental health services and overutilization of out-of-home treatment placements, plus our findings in this study, lead us to the same conclusion that Knitzer, Friedman and many others have reached: many INVISIBLE CHILDREN could have been served as effectively in their own home community if appropriate community services had been available.

The data collected in this survey confirms the concerns of the National Mental Health Association that a major problem continues to exist ten years after Knitzer's initial warnings with regard to the unnecessary out-of-home placement of our young people and the failure of most states to develop a community-based system of mental health services for children.

We must begin to look at the long-term effects of current policy on our children. We must begin to preserve families, to create self-sufficiency rather than dependence and to meet the needs of our children with minimal intrusion into their lives and their families' lives. Policies that lead to child-centered, family-focused, community-based care must be put into effect so that our INVISIBLE CHILDREN will have a better chance to become contributing, healthy citizens.

HOUSE BILL NO. 304

MR. CHAIRMAN:

I move to amend House Bill No. 304 as follows:

On page 9 in line 4 by deleting the following: "of not less than 30 beds that is".

On page 9 in line 7 by deleting the following: "between 5 and" and by substituting in lieu thereof the word "under".

EXHIBIT 4
DATE 2-1-89
HB 304

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. HB 304 DATE 2/1/89

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
STEVE WALDRON	MRCCA - HELENA	✓	
Pat Melby	Yellowstone Treatment Cntr	✓	
JOHN LAWKINSON	Deaconess House	✓	
JOHN THORSON	MENTAL HEALTH ASSOC	✓ WITH COMMENTS	
Jack Carey	Shodair	W/amendment	
Chad Smith	Shodair	W/amendment	
Joan Rehbein	Mont Ment Health Coun.	✓	
~~[illegible]~~	~~[illegible]~~		
TOM NELSON	HRAE	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

_____ COMMITTEE

BILL NO. 304 DATE [illegible]

SPONSOR Hanna

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Loran Soft	1732 S. 72nd St. W Billings MT	X	
Dan Yagle	1732 S. 72nd St W Billings MT	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

not contributing several millions of in premium taxes. Rep. Simon questioned the termination of the act in two places in the bill, to eliminate one of the references to the termination. Rep. Simon stated that this was a valuable program and that it had a good cost benefit and that he was voting no as a protest to the fact that the bill belonged in the general fund.

Motion: Rep. Whalen made a Motion to have the researcher take care of the technical data on the bill.

Amendments, Discussion, and Votes: A vote was taken to DO PASS AS AMENDED and all voted in favor with the exception of Reps. Simon, Lee, Gould, Boharski, Nelson. Rep. Knapp indicated that he wanted to abstain his voting.

DISPOSITION OF HB 304

Hearing on HB 304 was February 1, 1989.

Motion: Rep. Simon made a Motion to DO PASS; Rep. Brown made a Motion to move the amendments.

Discussion: Rep. Good stated that she objected to the amendment. Rep. Russell asked Rep. Brown about the addition of Shodair Hospital in the amendment. Rep. Brown stated yes and stated the amendment was on page 9, line 4, delete "of not less than 30 beds", page 9, line 7, delete "between 5 and", substitute "under."

Amendments, Discussion, and Votes: A vote was taken on the amendment, all voted in favor with the exception of Reps. Good, Nelson, Squires, Simon.

Motion: Rep. Brown then made a Motion to DO PASS AS AMENDED. Rep. Lee made a Motion to offer the amendment to strike "non profit."

Discussion: Rep. Lee stated that the amendment would open up to consideration by any otherwise qualified provider. Rep. Squires asked if any facility in the state that would have open beds and would meet the criteria of the bill. Rep. Lee suggested Glacier View as an instance. Rep. Squires stated that if the program is expanded, we are going to lose it. Rep. Simon stated that the amendment should be killed.

Amendments, Discussion, and Votes: A vote was taken on Rep. Lee's amendment. A vote was taken and all voted in favor with the exception of Rep. Lee.

Recommendation and Vote: A vote was taken to DO PASS AS AMENDED. All voted in favor except Reps. Squires, Nelson, Good, Simon, Knapp.

DISPOSITION OF HB 308

Hearing on HB 395 was February 3, 1989.

Motion: Rep. Squires made a Motion to DO PASS.

Discussion: Mary McCue stated that the codification instruction is in error. Codification on page 32, line 6-9, delete section 16 in its entirety.

Amendments, Discussion, and Votes: Rep. Gould made a Motion to Move the Amendment. A vote was taken and all voted in favor.

Recommendation and Vote: Rep. Gould made a Motion to DO PASS AS AMENDED. A vote was taken and all voted in favor.

DISPOSITION OF HB 395

Hearing on HB 395 was February 3, 1989.

Motion: Rep. Whalen made a Motion to DO PASS. Rep. Gould made a Motion to Move the Amendments.

Discussion: Mary McCue questioned page 6, subsection B, that this language is going to replace both of the sentences. The change in the reference to the Board acting jointly and title adjustment.

Amendments, Discussion, and Votes: A vote was taken on the amendments and all voted in favor.

Motion: Rep. Gould then made a Motion to DO PASS AS AMENDED.

Discussion: Rep. Lee questioned the amendment on page 6, line 19, does this indicate that if a nurse specialist applied for prescriptive authority, the Board cannot turn her down? Should not the Board have the authority over the program. Rep. Whalen stated that the intent of the legislation is not to give any discretion to the Board, if a person is licensed as a nurse specialist, they shall have the authority to do this. The language is appropriate. Rep. Simon stated his agreement, the language to grant that nurse specialists the authority within the area that they are the specialist and not appropriate that they be granted authority in a

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-3-89

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

STANDING COMMITTEE REPORT

February 4, 1989

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 304 (first reading copy -- white) do pass as amended .

Signed: _____
Stella Jean Hansen, Chairman

And, that such amendments read:

1. Page 9, line 4.
Strike: "of not less than 30 beds that is"

2. Page 9, line 7.
Strike: "between 5 and"
Insert: "under"